

REMARKS

Applicants submit that by the present Amendment and Remarks this Application is placed in clear condition for immediate allowance. At the least, the present Amendment reduces the number of issues on appeal by eliminating the imposed rejection under the second paragraph of 35 U.S.C. § 112. Furthermore, the present Amendment does not generate any new matter issue or any new issue for that matter, because the present Amendment merely deletes the previous claim amendments returning the claims to their original form previously considered by the Examiner. Accordingly, entry of the present Amendment and Remarks, and favorable consideration, are solicited pursuant to the provisions of 37 C.F.R. § 1.116.

Claims 1 through 4, 6 through 15 and 18 through 24 were rejected under the second paragraph of 35 U.S.C. § 112.

In the statement of the rejection the Examiner asserted that the scope of the claims cannot be assessed with respect to the second region or the transmissive region which extends across adjacent pixels. This rejection is traversed.

By the present Amendment the language previously introduced into the claims with respect to the transmissive region extending across adjacent pixels has been deleted thereby overcoming the stated basis for the imposed rejection. Indeed, one having ordinary skill in the art would have no difficulty understanding the scope of the claimed invention, particularly when reasonably interpreted in light of and consistent with the written description of the specification, as judicially required. *Miles Laboratories, Inc. v. Shandon, Inc.*, 997 F.2d 870, 27 USPQ2d 1123 (Fed. Cir. 1993).

Applicants, therefore, submit that the imposed rejection of claims 1 through 4, 6 through 15 and 18 through 24 under the second paragraph of 35 U.S.C. § 112 is not legally viable and, hence, solicit withdrawal thereof.

Claims 1 through 4, 6, 7, 9 through 15, 18, 19, and 21 through 24 were rejected under 35 U.S.C. § 102 for lack of novelty as evidenced by Ozawa et al.

In the statement of the rejection the Examiner again referred to Figs. 4A and 4B, asserting the disclosure of a display corresponding to that claimed comprising, *inter alia*, adjacent pixels in region 32, wherein each pixel display region has a reflective region and a transmissive region and a second region corresponding to the transmissive region continuously formed among the adjacent pixels. This rejection is traversed as factually inaccurate.

The factual determination of lack of novelty under 35 U.S.C. § 102 requires the identical disclosure in a single reference of each element of a claimed invention, such that the identically claimed invention is placed into the recognized possession of one having ordinary skill in the art. *Dayco Prods., Inc. v. Total Containment, Inc.*, 329 F.3d 1358, 66 USPQ2d 1801 (Fed. Cir. 2003); *Crown Operations International Ltd. v. Solutia Inc.*, 289 F.3d 1367, 62 USPQ2d 1917 (Fed. Cir. 2002). When imposing a rejection under 35 U.S.C. § 102, the Examiner is required to specifically identify wherein an applied reference is asserted to identically disclose each and every feature of a claimed invention, particularly when such is not apparent as in the present case. *In re Rijckaert*, 9 F.3d 1531, 28 USPQ2d 1955 (Fed. Cir. 1993); *Lindemann Maschinenfabrik GMBH v. American Hoist & Derrick Co.*, 730 F.2d 1452, 221 USPQ 481 (Fed. Cir. 1984). That burden has not been discharged. Indeed, there is a fundamental difference

between the claimed display and the display disclosed by Ozawa et al. that scotches the factual determination that Ozawa et al. discloses a display identically corresponding to that claimed.

Specifically, each of independent claims 1 and 13 is directed to a display comprising, *inter alia*, a second region in which the convex insulating film is not formed, and the second region is continuously formed among adjacent pixels. No such structure is disclosed or suggested by Ozawa et al., including Figs. 4A and 4B as asserted by the Examiner. Specifically, the concave region disclosed by Ozawa et al. is not formed **continuously** among adjacent pixels. Rather, the concave region of Ozawa et al. is a **rectangular opening** having four sides enclosed by a convex insulating film, clearly disclosed in column 15, line 27 as “a rectangular opening 40”.

The bottom line is that Ozawa et al. neither disclose nor suggest a display having a second region, in which the convex insulating film was not formed, continuously formed among adjacent pixels. This **structural difference** between the claimed display and the display disclosed by Ozawa et al. undermines the factual determination that Ozawa et al. disclose a display identically corresponding to that claimed. *Minnesota Mining & Manufacturing Co. v. Johnson & Johnson Orthopaedics Inc.*, 976 F.2d 1559, 24 USPQ2d 1321 (Fed. Cir. 1992); *Kloster Speedsteel AB v. Crucible Inc.*, 793 F.2d 1565, 230 USPQ 81 (Fed. Cir. 1986).

Applicants, therefore, submit that the imposed rejection of claims 1 through 4, 6, 7, 9 through 15, 18, 19, and 21 through 24 under 35 U.S.C. § 102 for lack of novelty as evidenced by Ozawa et al. is not factually viable and, hence, solicit withdrawal thereof.

Claims 8 and 20 were rejected under 35 U.S.C. § 103 for obviousness predicated upon Ozawa et al. in view of Fujimori et al.

This rejection is traversed.

Specifically, claim 8 depends from independent claim 1 and claim 20 depends from independent claim 13. Applicants incorporate herein the arguments previously advanced in traversing the imposed rejection of claims 1 and 13 under 35 U.S.C. § 102 for lack of novelty as evidenced by Ozawa et al. The secondary reference to Fujimori et al. does not cure the previously argued deficiencies of Ozawa et al. Accordingly, even if the applied references are combined as proposed by the Examiner, and Applicants do not agree that the requisite fact-based motivation has been established, the claimed invention would not result. *Uniroyal, Inc. v. Rudkin-Wiley Corp.*, 837 F.2d 1044, 5 USPQ2d 1434 (Fed. Cir. 1988).

Applicants, therefore, submit that the imposed rejection of claims 8 and 20 under 35 U.S.C. § 103 for obviousness predicated upon Ozawa et al. in view of Fujimori et al. is not factually or legally viable and, hence, solicit withdrawal thereof.

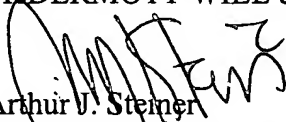
Based upon the foregoing it should be apparent that the imposed rejections have been overcome, and that all pending claims are in condition for immediate allowance. Favorable consideration is, therefore, solicited.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Application No.: 10/826,388

Respectfully submitted,

McDERMOTT WILL & EMERY LLP



Arthur J. Steiner
Registration No. 26,106

600 13th Street, N.W.
Washington, DC 20005-3096
Phone: 202.756.8000 AJS:bjs:ntb
Facsimile: 202.756.8087
Date: September 18, 2006

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